

**INTERNATIONAL AIRPORT LOUNGE LIQUOR LICENSE
APPLICATION CHECKLIST**

The items below must be completed and submitted by the **10th of the month** or earlier, so that your application can be processed in a timely manner. Because there are a limited number of licenses available, you will be notified of the next monthly Utah Alcoholic Beverage Control Commission meeting when your application will be considered. We request that a representative attend the meeting to make a brief presentation.

1. Completed application (form enclosed).
2. Criminal history background check information (see application form).
3. Written consent from the city council. (form enclosed)
4. Written consent from international airport authority.
5. Copy of local business/alcoholic beverage license(s).
6. \$10,000.00 cash of corporate surety bond (form enclosed).
7. Certificate of insurance for public liability/dram shop coverage (Minimum \$500,000 per occurrence/\$1,000,000 in the aggregate).
8. Scaled floor plan (8-1/2"x11") of airport lounge facility highlighting areas for storage, sale and consumption of alcoholic beverages. Lounge must be located in terminal beyond the airport security point.
9. Copy of the Articles of incorporation with certificate, if incorporated; or partnership agreement if applicable.
10. \$1,000.00 application fee (non refundable).
11. \$1,000.00 annual license fee for period ending October 31. Make checks payable to UDABC.
12. Copy of sign to be used on the premises to inform public of availability of alcoholic beverages.

Enclosed are copies of Utah law and Commission Rules pertaining to airport lounge liquor licenses, and a list of factors considered in the evaluation of license applications. If you have questions concerning these forms of the application process, please contact the licensing and compliance section at (801) 977-6800.

UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
APPLICATION FOR
AIRPORT LOUNGE LIQUOR LICENSE

1. Business name: _____

2. Applicant/Owner of business: _____

3. Location: _____
Airport Terminal City State Zip

4. Mailing address: _____
Street P.O. Box City State Zip

5. Business phone: _____ Other phone: _____

6. Manager: _____ Contact person: _____

7. Ownership: Check appropriate box and provide the requested information in the space below:
(add additional sheets if necessary)

- ☐ Applicant is an **individual**: List below information for: (a) Individual
(b) Managers
- ☐ Applicant is a **partnership**: List below information for: (a) All Partners
(b) Managers
- ☐ Applicant is a **corporation**: List below information for: (a) Any Stockholder
owning at least
20% of the corporation
(b) All Corporate officers
(c) Managers
- ☐ Applicant is a **limited liability company (LLC)**:
List below information for: (a) Any members
owning at least 20% of
the company
(b) Managers

TITLE _____ NAME _____ HOME ADDRESS _____
HOME PHONE# _____ DR LIC# _____ SS# _____ DOB _____ % OWNED _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

TITLE _____ NAME _____ HOME ADDRESS _____
HOME PHONE# _____ DR LIC# _____ SS# _____ DOB _____ % OWNED _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

TITLE _____ NAME _____ HOME ADDRESS _____
HOME PHONE# _____ DR LIC# _____ SS# _____ DOB _____ % OWNED _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

8. Criminal History. The law prohibits persons who have been convicted of certain crimes from being in the alcoholic beverage business. This applies to any applicant, proprietor, partner, managing agent, director, or officer of the business. This also applies to any stockholder owning at least 20% of the corporation stock, or if a limited liability company, any member owning at least 20% of the company. Please list all criminal offenses other than minor traffic offenses of which you or any of these persons (including persons listed in subparagraph 7) have ever been convicted.

NAME

CRIMINAL OFFENSE

DATE OF CONVICTION

In addition, a criminal history **background check** must be furnished on each person listed above and in subparagraph 7. This may be done as follows:

a. Utah residents: If any person listed has been a **resident of Utah for at least two years**, he/she shall submit a fingerprint card to the DABC and consent to a fingerprint criminal background check by the Utah Bureau of Criminal Identification.

b. Non Residents: Out of state residents or persons who have resided in Utah for less than two years shall submit a fingerprint card to the DABC and consent to a fingerprint criminal background check by the **Federal Bureau of Investigation (F.B.I.)**.

An informed consent and release of liability form is included with this application.

Fingerprint cards are available at law enforcement agencies. You may download the fingerprint card at this web address: <http://www.fbi.gov/hq/cjisd/pdf/fpcardb.pdf>

Submit the form(s) to the DABC with a processing fee of:

- \$15.00 per card for BCI background checks, or
- \$34.25 per card for FBI background checks.

In the case of an undue delay in the processing of an F.B.I. criminal background check, here are the rules and procedures for obtaining a third-party national background check: An application that requires F.B.I. criminal history background report(s) may be included on a commission meeting agenda, and may be considered by the commission for issuance of a license, permit, or package agency if:

1). the applicant has completed all requirements to apply for the license, permit, or package agency other than the department receiving the F.B.I. criminal history background report(s);

2). the applicant attests in writing that he or she is not aware of any criminal conviction of any person identified in the application that would disqualify the applicant from applying for and holding the license, permit, or package agency;

3). the applicant has submitted to the DABC the necessary fingerprint card(s) required for the application and consented to the fingerprint criminal background check(s) by the F.B.I.

4). the applicant at the time of application supplies the department with a current criminal history background report conducted by a third-party background check reporting service on any person for which an F.B.I. background check is required; and

5). the applicant stipulates in writing that if an F.B.I. report shows a criminal conviction that would disqualify the applicant from holding the license, permit, or package agency, the applicant shall immediately surrender the license, permit, or package agency to the department.

A suggested attestation/stipulation letter that satisfies the above requirements is enclosed.

A third-party national criminal background check can be obtained by;

- searching the yellow pages under Background Screening
- searching the internet under Background Screening or Background Checks

Because the DABC is State Agency, we cannot recommend any one background screening service over another. It is your responsibility however, to obtain the most complete, nationwide, criminal history available for the application process.

9. Owner of real property and building: _____

10. List any other alcoholic beverage licenses previously and/or currently applicant/principals:

11. Date lounge opened for business: _____(or projection)_____
12. Days and hours of operation: _____
13. Total seating capacity: _____
14. Square footage of facility: _____
15. Monthly gross sales: _____ (or projection): _____
16. By signing below, the applicant attests that:

a) the applicant is in compliance with all federal and state laws pertaining to the payment of taxes and contributions to unemployment and insurance funds. The following are tax identification numbers of the business.

- i. State Sales Tax #: _____
- ii. State Payroll Withholding Tax #: _____
- iii. State Dept. of Workforce Services #: _____
- iv. Federal Taxpayer Identification #: _____

b) the proprietor/applicant is at least 21 years of age.

c) consent is granted to representatives of the Alcoholic Beverage Control Department, Commission, State Bureau of Investigation (Bureau of Alcoholic Beverage Law Enforcement), and other law enforcement agencies to be admitted immediately and permitted without hindrance or delay to inspect the entire premises and all records of the licensee.

d) he/she has read and will abide by the provisions of Title 32A, Utah Code, and all rules of the commission and directives of the Department of Alcoholic Beverage Control; and understands that failure to adhere thereto or to no longer possess the qualifications of a licensee may result in suspension or revocation of the liquor license and forfeiture of compliance bond.

e) the applicant does not and will not discriminate against persons on the basis of race, color, sex, religion, ancestry, or national origin.

17. Applicant agrees to immediately notify the department of any change in ownership, and if a corporation, any change in officers/directors; and understands that failure to do so may result in immediate suspension of license.

18. The undersigned acknowledges he/she has read and understands the statements made herein, that execution hereof is done voluntarily and by authorization of said applicant/organization; and that any false statements made on this application or any other related document is a second degree felony.

19. The undersigned hereby makes application to the Utah Alcoholic Beverage Control Commission for an airport lounge liquor license and certifies that the information contained herein and attached hereto is true and correct.

Dated this _____ day of _____, 20____.

Applicant/Owner

Authorized signature

Name/Title

STATE OF _____

COUNTY OF _____

Subscribed & sworn to before me this
_____ day of _____, _____.

Notary Public

SEAL:

**UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
AIRPORT LOUNGE LIQUOR LICENSE**

LOCAL CONSENT

Date: _____

Utah Department of Alcoholic Beverage Control
Licensing & Compliance Section
1625 South 900 West
PO Box 30408
Salt Lake City, Utah 84130-0408

_____(City) (Town)(County) hereby
grants its consent to the establishment of an airport lounge liquor license for
_____owned by
_____and located at the
_____pursuant to the
provisions of 32A-4, Part 2, Utah Code, for the purpose of storage, sale, and consumption
of liquor on the premises. Furthermore, said organization has met all local ordinances
relating to issuance of local business license(s).

Authorized signature

Name/title

**UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
AIRPORT LOUNGE LIQUOR BOND**

BOND # _____

KNOW ALL PERSONS BY THESE PRESENTS:

That **principal**, _____, an airport lounge liquor licensee, doing business as _____, and **surety**, _____, a corporation organized and existing under the laws of the state of _____, and authorized to do business in Utah, are held and bound unto the Department of Alcoholic Beverage Control in the sum of \$10,000, for which payment will be made, we hereby bind ourselves and our representatives, assigns, and successors firmly by these presents.

Dated this _____ day of _____, _____.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the above principal has made application to the Utah Alcoholic Beverage Control Commission for an airport lounge liquor license pursuant to the provisions of 32A-4, Part 2, Utah Code.

NOW, THEREFORE, if said principal, its officers, agents and employees shall faithfully comply with the provisions of Title 32A, Utah Code, and the rules and directives of the Department of Alcoholic Beverage Control, then this bond shall be void; but, if said principal, its officers, agents and employees fail to comply with the provisions of said laws, rules, and directives or orders as the department or commission may issue, then this bond shall be in full force and effect and payable to the Department of Alcoholic Beverage Control. This bond shall run for a continuing term effective _____ unless canceled by service of written notice upon the Department of Alcoholic Beverage Control, which cancellation shall be effective thirty (30) days after receipt of such notice, provided however, that no part of this bond shall be withdrawn or canceled while violations, legal actions or proceedings are pending against said licensee/principal.

Principal

Surety

Attorney in Fact

Authorized signature

Name/title

{STATUTORY AFFIDAVIT FOR CORPORATE SURETY}

STATE OF: _____

COUNTY OF: _____

On the _____ day of _____, _____, personally appeared before me,
_____ who, being by me duly sworn, did say that he/she is the attorney in fact of
surety, _____ and that said instrument was signed in behalf of said
surety by authority, and acknowledged to me that he/she as such attorney in fact executed the same.

Notary Public

Note: Corporate surety's own affidavit also acceptable

AIRPORT LOUNGE LIQUOR LICENSE APPLICATION EVALUATION FACTORS

The Alcoholic Beverage Control Department and Commission utilize the following factors for evaluating an airport liquor lounge license application, including, but not limited to:

1. Physical characteristics such as:

- condition of the premises,
- square footage,
- seating capacity,
- location in airport,
- proximity to other airport lounges in the airport.

2. Management experience:

- familiarity with alcoholic beverage operations,
- familiarity with financial record keeping,
- management scheme employed by the airport lounge,
- length of time in operation,
- past compliance with alcoholic beverage laws and rules.

3. Nature and type of lounge operation. _____

4. Public input. _____

Note: Keep this sheet and refer to it as needed for presentation before the ABC Commission.

INFORMED CONSENT AND RELEASE OF LIABILITY

PURPOSE: To determine, in accordance with Utah Code 32A-1-702 and 32A-1-703, if an applicant with the Department of Alcoholic Beverage Control has been:

- convicted of a felony under federal or state law;
- convicted of a violation of a federal law, state law, or local ordinance concerning the sale, manufacture, distribution, warehousing, or transportation of an alcoholic beverage;
- convicted of a crime involving moral turpitude;
- convicted on two or more occasions within the previous five years, driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug.

RELEASE

I hereby authorize the Department of Alcoholic Beverage Control (DABC) to investigate my criminal history records to ascertain any and all information which may be pertinent to my qualifications as an applicant with the DABC. The release of any and all information is authorized whether it is of record or not, and I do hereby release all persons, firms, agencies, companies, groups or installations, whomsoever, from any damages of or resulting from, furnishing such information to the DABC. I further agree that a copy of this release will remain in my application file.

Name (please print; last, first, middle initial)

Formerly used last names (please print)

Applicant/ doing business as

Signature

Date

(suggested attestation/stipulation letter to the DABC for a third-party national criminal background check)

Date: _____

To whom it may concern:

I, _____, attest:

- 1. That I have submitted to the DABC the necessary fingerprint card(s) required for the application and consented to the fingerprint criminal background check(s) by the F.B.I.**
- 2. That I am not aware of any criminal conviction that would disqualify me from applying for and holding a Utah Department of Alcoholic Beverage Control license or permit.**

I stipulate that if an F.B.I. report shows a criminal conviction that would disqualify me from holding the license, permit, or package agency, I shall immediately surrender the license, permit, or package agency to the department.

I am enclosing a national criminal history background report from a third party background check reporting service.

Signature

Name/Title

Sales Tax Information for Liquor License Holders

Starting July 1, 2007, the prices of liquor, wine, and heavy beer at the liquor stores and package agencies will NO LONGER include sales tax. The sales tax will be added at the cash register when members of the general public shop in a liquor store or package agency and bring their purchases to the cash register. License holders (licensees) that make purchases at the cash register will be charged sales tax just like the general public.

Licensees may purchase liquor from the department without paying the sales tax under these two conditions:

1. The licensee must file tax commission form TC-721 with the DABC. A copy of this form is included in this application packet. Once filed, the licensee can buy liquor, wine, and heavy beer exempt from sales tax at any DABC owned and operated state liquor store. If the licensee buys from a local package agency that is a "contracted store" (not owned or operated by the DABC), the licensee has to file form TC-721 with the package agency in order to be able to purchase "sales tax exempt"; *and*
2. The licensee must adhere to the liquor order procedures established by the DABC commission as follows:
 - (a) Commission rule requires that orders must be placed in advance to allow department personnel sufficient time to assemble the order. The order shall include the business name of the licensee, department permit number, and list the products ordered specifying each product by code number and quantity. The order may be telephoned or faxed to the store or agency.
 - (b) The licensee shall allow at least four hours for department personnel to assemble the order for pick-up. When the order is complete, the licensee will be notified by phone and given the total cost of the order. The licensee may pay for the product in cash, company check, cashier's check, or debit card with a PIN.
 - (c) The licensee or the licensee's designee shall examine and sign for the order before it leaves the store, agency or satellite warehouse to verify that the product has been received.
 - (d) Merchandise shall be supplied to the licensee on request when it is available on a first come first serve basis. Discounted items and limited items may, at the discretion of the department, be provided to a licensee on an allocated basis.

	Utah State Tax Commission Exemption Certificate (Sales, Use, Tourism and Motor Vehicle Rental Tax)		TC-721 Rev. 5/06

Name of business or institution claiming exemption (purchaser)		Telephone Number	
Street Address		City	State ZIP Code
Authorized Signature	Name (please print)		Title
Name of Seller or Supplier: Department of Alcoholic Beverage Control			Date

The person signing this certificate **MUST** check the applicable box showing the basis for which the exemption is being claimed. Questions should be directed (preferably in writing) to Taxpayer Services, Utah State Tax Commission, 210 N 1950 W, Salt Lake City, UT 84134. Telephone (801) 297-2200, or toll free 1-800-662-4335.

DO NOT SEND THIS CERTIFICATE TO THE TAX COMMISSION
 Keep it with your records in case of an audit.

Sales tax account numbers with an "H" prefix are not to be used for tax-free purchases for resale or re-lease.

RESALE OR RE-LEASE

Sales Tax License No. _____

I certify I am a dealer in tangible personal property or services that is for resale or re-lease. If I use or consume any tangible personal property or services I purchase tax free for resale, or if my sales are of food, beverages, dairy products and similar confections dispensed from vending machines (see Rule R865-19S-74), I will report and pay sales tax on the proper cost thereof directly to the Tax Commission on my next regular sales and use tax return.

COMMERCIAL AIRLINES

I certify the food and beverages purchased are by a commercial airline for in-flight consumption; or, any parts or equipment purchased are for use in aircraft operated by common carriers in interstate or foreign commerce.

RELIGIOUS OR CHARITABLE INSTITUTION

Sales Tax Exemption No. N _____

I certify the tangible personal property or services purchased will be used or consumed for essential religious or charitable purposes. This exemption can only be used on purchases totaling \$1,000 or more, unless the sale is pursuant to a contract between the seller and purchaser.

To be valid this certificate must be filled in completely, including a check mark in the proper box.

A sales tax license number is required only where specifically indicated.

Please sign, date and, if applicable, include your license or exemption number.

NOTE TO SELLER: Keep this certificate on file since it must be available for audit review.

NOTE TO PURCHASER: Keep a copy of this certificate for your records. You are responsible to notify the seller of cancellation, modification, or limitation of the exemption you have claimed.

DO NOT SEND THIS CERTIFICATE TO THE TAX COMMISSION

UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

P.O. Box 30408 • Salt Lake City, UT 84130-0408 • Ph: 801-977-6800 • Fax: 801-977-6889
website: www.abc.utah.gov

Airport Lounge License Summary

Note: This is general information only and should not be considered conclusive.

For further detail, please consult Title 32A of the Utah Code and the Rules of the Commission.

An airport lounge license allows the storage, sale, service, and consumption of alcoholic beverages on the premises of an airport lounge. Airport lounges may be established at international airports that have a U.S. Customs office on the airport premises. Licenses run from November 1 to October 31. The total number of airport lounge liquor licenses may not exceed one lounge per terminal plus one lounge per concourse located beyond the security point.

Purchases of Alcoholic Beverages

- Airport lounges must purchase all liquor, wine, and heavy beer from state stores or package agencies.
- Airport lounges must purchase, acquire, possess for resale, or sell beer that has been lawfully purchased from a Utah wholesaler who is authorized to sell beer in the geographical area in which the airport lounge is located, or from a small brewer (manufactures less than 60,000 barrels per year).

Sale and Service of Alcoholic Beverages

(1) Liquor Sales

- (a) The primary liquor in a mixed drink may be dispensed from any size bottle, but only in quantities **not to exceed** 1.5 ounces through a department approved calibrated metered dispensing system or device. The airport lounge must post a list of types and brands of liquor dispensed through the dispensing system.
- (b) Liquor used as a secondary flavoring need not be dispensed through the dispensing system. Liquor stored and used as flavorings must be clearly labeled "flavoring".
- (c) The total amount of spirituous liquor in a beverage (including both the primary liquor and any secondary flavorings) may not exceed 2.5 ounces of spirituous liquor.
- (d) Each patron may have no more than a total of 2.5 ounces of spirituous liquor (including flavorings) at a time before the patron.

(2) Wine Sales

- (a) Wine may be sold and served by the bottle or container in sizes not exceeding 1.5 liters to tables of four or more. For tables of less than four, the size can not be larger than 750 ml.
- (b) Wine may be served by the glass or individual portion in quantities not exceeding 5 ounces. An individual portion (i.e. flights) may be served to a patron in more than one glass as long as the total amount of wine in the individual portion does not exceed 5 ounces.
- (c) Wine may be poured by the glass from any size bottle or container and need not be dispensed through a dispensing device.
- (d) Patrons who have purchased bottled wine may serve themselves or others at their table.

(3) Heavy Beer Sales: Heavy beer may be served in original containers not exceeding one liter.

(4) Flavored Malt Beverage Sales: Flavored malt beverages may be served in original containers not exceeding one liter.

(5) Beer Sales: Beer may be served in any size container not exceeding 2 liters and on draft. Beer may be sold by the pitcher (up to two liters) to two or more patrons, but may be sold to an individual patron only in a container that does not exceed one liter.

Limitation on Total Number of Drinks

- Each airport lounge patron may have no more than two alcoholic beverages of any kind at a time before the patron subject to the following limitations:

If two spirituous drinks are in front of a patron, one may not be the same primary liquor dispensed as a shot-on-the-side (commonly known as a "side car"). Also, the two drinks can not contain a total of more than 2.5 ounces of liquor at a time before the patron.

Discounting Practices Prohibited

- Liquor may not be sold at a discount at any time.
- Other discounting practices are prohibited that encourage over-consumption of alcohol (i.e. “happy hours”, “two for ones”, “all you can drink for a set price”, free alcohol, or selling at less than cost).
- An airport lounge licensee or employee may not purchase an alcoholic beverage for a patron.

Consumption only on the Premises

- An airport lounge licensee and its employees may not permit a patron to remove any alcoholic beverages from the premises.

“Brown Bagging”

- Patrons may not bring onto the premises of an airport lounge licensee any alcoholic beverage for on-premise consumption.

Advertising

- Alcohol advertising by the airport lounge must comply with the guidelines in Rule R81-1-17.
- Alcoholic beverages *may* be stored where they are visible to patrons.

Sales Hours

- Alcoholic beverages may be sold on any day from 8 a.m until midnight.
- The liquor storage area must remain locked at times when liquor sales are not permitted.

Employees

- Any employee handling alcoholic beverages must be twenty one years of age or older.
- Servers of alcohol must wear a unique identification badge showing the employee's first name, initials, or a number assigned by the employer.
- Employees may not consume or be under the influence of alcoholic beverages while on duty.
- Managers, supervisors, and employees who serve alcohol must take and pass an alcohol server training seminar every three years and must complete the training within 30 days of commencing employment.

Employee Fines

- The commission is authorized to assess an administrative fine against an officer, employee, or agent of a licensee for a violation of the alcoholic beverage laws.

Minors

- Minors may be employed by an airport lounge licenses, but may not sell or dispense alcoholic beverages.
- Minors may work at a cash register to ring up the sale of alcoholic beverages.

Warning Sign

- Each airport lounge licensee shall display, in a prominent place, a sign in at least half inch bold letters stating: “Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah.”

Bad Checks

- The DABC may immediately suspend the license if it receives a bad check as payment for liquor, licensing or bond fees, fines and costs for violations, etc..

Prohibited Conduct

- Lewd acts, attire, and sexually oriented conduct of employees and entertainers that are considered contrary to public welfare and morals are prohibited on the premises.

Gambling

- Airport lounge licensees may not engage in or permit any form of gambling on its premises.

TITLE 32A - ALCOHOLIC BEVERAGE CONTROL ACT

(Updated through May 2008)

Chapter 4 - Part 2 Airport Lounge Liquor Licenses

32A-4-201. COMMISSION'S POWER TO GRANT LICENSES -- LIMITATIONS.

(1) Before an airport lounge may sell or allow the consumption of liquor on its premises, it shall first obtain a license from the commission as provided in this part.

(2) The commission may issue airport lounge liquor licenses for the purpose of establishing airport liquor outlets at international airports for the storage, sale, and consumption of liquor on premises operated as public airport lounges.

(3) The total number of airport lounge liquor licenses may not exceed one lounge per terminal plus one lounge per concourse located beyond the security point at that international airport.

32A-4-202. APPLICATION AND RENEWAL REQUIREMENTS.

(1) A person seeking an airport lounge liquor license under this part shall file a written application with the department, in a form prescribed by the department, accompanied by:

- (a) a nonrefundable \$250 application fee;
- (b) an initial license fee of \$7,000, which is refundable if a license is not granted;
- (c) written consent of the local and airport authority;
- (d) a copy of the applicant's current business license;
- (e) a bond as specified by Section 32A-4-205;
- (f) a floor plan of the airport lounge, including consumption areas and the area where the applicant proposes to keep, store, and sell liquor;
- (g) a copy of the sign proposed to be used by the licensee on its premises to inform the public that alcoholic beverages are sold and consumed there;
- (h) evidence that the airport lounge is carrying public liability insurance in an amount and form satisfactory to the department;
- (i) evidence that the airport lounge is carrying dramshop insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;
- (j) a signed consent form stating that the airport lounge will permit any authorized representative of the commission, department, or any law enforcement officer unrestricted right to enter the airport lounge;
- (k) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the airport lounge application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and
- (l) any other information the commission or department may require.

(2)(a) All airport lounge liquor licenses expire on October 31 of each year. (b) A person desiring to renew that person's airport lounge liquor license shall submit a renewal fee of \$5,000 and a completed renewal application to the department no later than September 30.

(c) Failure to meet the renewal requirements shall result in an automatic forfeiture of the license, effective on the date the existing license expires.

(d) Renewal applications shall be in a form as prescribed by the department.

(3) To ensure compliance with Subsection 32A-4-206(21), the commission may revoke an airport lounge liquor license if the airport liquor licensee does not immediately notify the department of any change in:

- (a) ownership of the licensee;
- (b) for a corporate owner, the:
 - (i) corporate officers or directors; or
 - (ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or
- (c) for a limited liability company:
 - (i) managers; or
 - (ii) members owning at least 20% of the limited liability company.

32A-4-203. Qualifications.

(1) (a) The commission may not grant an airport lounge liquor license to any person who has been convicted of:

- (i) a felony under any federal or state law;
- (ii) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
- (iii) any crime involving moral turpitude; or
- (iv) on two or more occasions within the five years before the day on which the license is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership, corporation, or limited liability company the proscription under Subsection (1)(a) applies if any of the following has been convicted of any offense described in Subsection (1)(a):

- (i) a partner;
- (ii) a managing agent;
- (iii) a manager;
- (iv) an officer;
- (v) a director;
- (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or
- (vii) a member who owns at least 20% of the limited liability company.

(c) The proscription under Subsection (1)(a) applies if any person employed to act in a supervisory or managerial capacity for an airport lounge has been convicted of any offense described in Subsection (1)(a).

(2) The commission may immediately suspend or revoke an airport lounge license if after the day on which the airport lounge license is granted, a person described in Subsection (1)(a), (b), or (c):

(a) is found to have been convicted of any offense described in Subsection (1)(a) prior to the license being granted; or

(b) on or after the day on which the license is granted:

- (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
- (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) The director may take emergency action by immediately suspending the operation of an airport lounge liquor license according to the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):

- (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii); or
- (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and
- (ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not grant an airport lounge liquor license to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant an airport lounge liquor license to any applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation, or member who owns at least 20% of the applicant limited liability company is or was:

(A) a partner or managing agent of any partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or a stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of the limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(b) A corporation or partnership applicant may not be granted an airport lounge liquor license if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted an airport lounge liquor license if that person was:

(i) a partner or managing agent of a partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owns at least 20% of a limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(5) (a) A minor may not be granted an airport lounge liquor license.

(b) The commission may not grant an airport lounge liquor license to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

(6) If any person to whom a license has been issued under this part no longer possesses the qualifications required by this title for obtaining that license, the commission may suspend or revoke that license.

32A-4-204. COMMISSION AND DEPARTMENT DUTIES BEFORE GRANTING LICENSES.

(1) Before an airport lounge liquor license may be granted by the commission, the department shall conduct an investigation and may hold public hearings for the purpose of gathering information and making recommendations to the commission as to whether or not a license should be granted. This information shall be forwarded to the commission to aid in its determination.

(2) Before issuing an airport lounge liquor license, the commission shall:

(a) determine that the applicant has complied with all basic qualifications and requirements for making application for a license as provided by Sections 32A-4-202 and 32A-4-203, and that the application is complete;

(b) consider the applicant's ability to manage and operate an airport lounge liquor license including, but not limited to, management experience, past retail liquor experience, and the type of management scheme employed by the airport lounge;

(c) consider the nature or type of lounge operation of the proposed liquor licensee; and

(d) consider any other factors or circumstances it considers necessary.

32A-4-205. BOND.

(1) Each airport lounge liquor licensee shall post a cash or corporate surety bond in the penal sum of \$10,000 payable to the department, which the licensee has procured and must maintain for so long as the licensee continues to operate as an airport lounge liquor licensee.

(2) The bond shall be in a form approved by the attorney general, conditioned upon the licensee's faithful compliance with this title and the rules of the commission.

(3) If the \$10,000 surety bond is canceled due to the licensee's negligence, a \$300 reinstatement fee may be assessed. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by a licensee may be forfeited if the license is finally revoked.

32A-4-206. Operational restrictions.

A person granted an airport lounge liquor license and the employees and management personnel of the airport lounge shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the airport lounge liquor license or other disciplinary action taken against individual employees or management personnel.

(1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from a state store or package agency.

(b) Liquor purchased from a state store or package agency may be transported by the airport lounge liquor licensee from the place of purchase to the licensed premises.

(c) Payment for liquor shall be made in accordance with the rules established by the commission.

(2) An airport lounge liquor licensee may sell or provide a primary spirituous liquor only in a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title, except that:

(a) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following restrictions:

(i) the secondary ingredient may be dispensed only in conjunction with the purchase of a spirituous primary liquor;

(ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

(iii) the airport lounge liquor licensee shall designate a location where flavorings are stored on the floor plan provided to the department; and

(iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

(b) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish, drink, or dessert;

(c) an airport lounge patron may have no more than 2.5 ounces of spirituous liquor at a time before the patron; and

(d) an airport lounge patron may have no more than two spirituous liquor drinks at a time before the patron, except that an airport lounge patron may not have two spirituous liquor drinks before the airport lounge patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(3) (a) (i) Wine may be sold and served by the glass or an individual portion not to exceed five ounces per glass or individual portion.

(ii) An individual portion may be served to a patron in more than one glass as long as the total amount of wine does not exceed five ounces.

(iii) An individual portion of wine is considered to be one alcoholic beverage under Subsection (7)(c).

(b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

(ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price fixed by the commission to a table of less than four persons.

(c) A wine service may be performed and a service charge assessed by the airport lounge liquor licensee as authorized by commission rule for wine purchased at the airport lounge.

(4) (a) Heavy beer may be served in an original container not exceeding one liter at a price fixed by the commission.

(b) A flavored malt beverage may be served in an original container not exceeding one liter at a price fixed by the commission.

(c) A service charge may be assessed by the airport lounge liquor licensee as authorized by commission rule for heavy beer or a flavored malt beverage purchased at the airport lounge.

(5) (a) (i) Subject to Subsection (5)(a)(ii), an airport lounge liquor licensee may sell beer for on-premise consumption:

(A) in an open container; and

(B) on draft.

(ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does not exceed two liters, except that beer may not be sold to an individual patron in a size of container that exceeds one liter.

(b) An airport lounge liquor licensee that sells beer pursuant to Subsection (5)(a):

(i) may do so without obtaining a separate on-premise beer retailer license from the commission; and
(ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are inconsistent with or less restrictive than the operational restrictions under this part.

(c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the airport lounge's:

- (i) state liquor license; and
- (ii) alcoholic beverage license issued by the local authority.

(6) An alcoholic beverage may not be stored, served, or sold in a place other than as designated in the airport lounge liquor licensee's application, unless the airport lounge liquor licensee first applies for and receives approval from the department for a change of location within the airport lounge.

(7) (a) A patron may only make a purchase in the airport lounge from and be served by a person employed, designated, and trained by the airport lounge liquor licensee to sell, dispense, and serve an alcoholic beverage.

(b) Notwithstanding Subsection (7)(a), a patron who purchases bottled wine from an employee of the airport lounge may serve wine from the bottle to the patron or others at the patron's table.

(c) An airport lounge patron may have no more than two alcoholic beverages of any kind at a time before the patron, subject to the limitation in Subsection (2)(d).

(8) The liquor storage area shall remain locked at all times other than those hours and days when liquor sales and service are authorized by law.

(9) An alcoholic beverage may not be sold, offered for sale, served, or otherwise furnished at an airport lounge on any day after 12 midnight and before 8 a.m.

(10) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

- (a) minor;
- (b) person actually, apparently, or obviously intoxicated;
- (c) known habitual drunkard; or

(d) known interdicted person.

(11) (a) (i) Liquor may be sold only at a price fixed by the commission.

(ii) Liquor may not be sold at a discount price on any date or at any time.

(b) An alcoholic beverage may not be sold at less than the cost of the alcoholic beverage to the airport lounge liquor licensee.

(c) An alcoholic beverage may not be sold at a special or reduced price that encourages over consumption or intoxication.

(d) An alcoholic beverage may not be sold at a special or reduced price for only certain hours of the airport lounge liquor licensee's business day such as a "happy hour."

(e) More than one alcoholic beverage may not be sold or served for the price of a single alcoholic beverage.

(f) An indefinite or unlimited number of alcoholic beverages during a set period may not be sold or served for a fixed price.

(g) An airport lounge liquor licensee may not engage in a public promotion involving or offering free an alcoholic beverage to the general public.

(12) An alcoholic beverage may not be purchased for a patron of an airport lounge by:

- (a) the airport lounge liquor licensee; or
- (b) an employee or agent of the airport lounge liquor licensee.

(13) (a) A person may not bring onto the premises of an airport lounge liquor licensee an alcoholic beverage for on-premise consumption.

(b) An airport lounge liquor licensee or an officer, manager, employee, or agent of the airport lounge liquor licensee may not allow a person to bring onto the airport lounge premises an alcoholic beverage for on-premise consumption or allow consumption of the alcoholic beverage on the airport lounge liquor licensee's premises.

(14) An airport lounge liquor licensee and an employee of the airport lounge liquor licensee may not permit a patron to remove an alcoholic beverage from the airport lounge premises.

(15) (a) An airport lounge liquor licensee may not employ a minor to sell or dispense an alcoholic

beverage.

(b) Notwithstanding Subsection (15)(a), a minor who is at least 16 years of age may be employed to enter the sale at a cash register or other sales recording device.

(16) An employee of an airport lounge liquor licensee, while on duty, may not:

(a) consume an alcoholic beverage; or

(b) be intoxicated.

(17) A charge or fee made in connection with the sale, service, or consumption of liquor may be stated in a food or alcoholic beverage menu including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(18) An airport lounge liquor licensee shall display in a prominent place in the airport lounge:

(a) the liquor license that is issued by the department;

(b) a list of the types and brand names of liquor being served through its calibrated metered dispensing system; and

(c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(19) (a) An airport lounge liquor licensee shall maintain an expense ledger or record showing in detail:

(i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all other items required by the department; and

(ii) sales made separately for malt or brewed beverages, food, and all other items required by the department.

(b) An airport lounge liquor licensee shall keep a record required by Subsection (19)(a):

(i) in a form approved by the department; and

(ii) current for each three-month period.

(c) An expenditure shall be supported by:

(i) a delivery ticket;

(ii) an invoice;

(iii) a receipted bill;

(iv) a canceled check;

(v) a petty cash voucher; or

(vi) other sustaining datum or memorandum.

(d) In addition to a ledger or record required by Subsection (19)(a), an airport lounge liquor licensee shall maintain accounting and other records and documents as the department may require.

(e) An airport lounge liquor licensee or person acting for the airport lounge, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or other document of the airport lounge required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission, the department, or an official or employee of the commission or department, is subject to:

(i) the immediate suspension or revocation of the airport lounge's liquor license; and

(ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

(20) An airport lounge liquor license may not be transferred from one location to another, without prior written approval of the commission.

(21) (a) An airport lounge liquor licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the airport lounge liquor license to another person, whether for monetary gain or not.

(b) An airport lounge liquor license has no monetary value for the purpose of any type of disposition.

(22) A server of an alcoholic beverage in an airport lounge liquor licensee's establishment shall keep a written beverage tab for each table or group that orders or consumes an alcoholic beverage on the premises. The beverage tab shall list the type and amount of an alcoholic beverage ordered or consumed.

(23) An airport lounge liquor licensee's premises may not be leased for a private function.

(24) An airport lounge liquor licensee may not on the premises of the airport lounge liquor licensee:

(a) engage in or permit any form of gambling, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling;

(b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,

Part 11, Gambling; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(25) An airport lounge liquor licensee or an employee of the airport lounge liquor licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section **58-37-2**; or

(b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section **58-37a-3**.

R81. Alcoholic Beverage Control, Administration.

R81-4B. Airport Lounges.

R81-4B-1. Licensing.

Airport lounge liquor licenses are issued to persons as defined in Section 32A-1-105(38). Any contemplated action or transaction that may alter the organizational structure or ownership interest of the person to whom the license is issued must be submitted to the department for approval prior to consummation of any such action to ensure there is no violation of Sections 32A-4-202(3), 32A-4-203 and 32A-4-206(21).

R81-4B-2. Application.

A license application shall be included in the agenda of the monthly commission meeting for consideration for issuance of an airport lounge license when the requirements of Sections 32A-4-202, -203, and -205 have been met, a completed application has been received by the department, and the airport lounge premises have been inspected by the department.

R81-4B-3. Bonds.

No part of any corporate or cash bond required by Section 32A-4-205 may be withdrawn during the time the license is in effect. If the licensee fails to maintain a valid corporate or cash bond, the license shall be immediately suspended until a valid bond is obtained. Failure to obtain a bond within 30 days of notification by the department of the delinquency shall result in the automatic revocation of the license.

R81-4B-4. Insurance.

Public liability and dram shop insurance coverage required in Section 32A-4-202(1)(h) and (i) must remain in force during the time the license is in effect. Failure of the licensee to maintain the required insurance coverage may result in a suspension or revocation of the license by the commission.

R81-4B-5. Airport Lounge Liquor Licensee Liquor Order and Return Procedures.

The following procedures shall be followed when an airport lounge liquor licensee orders liquor from or returns liquor to any state liquor store, package agency, or department satellite warehouse:

(1) The licensee must place the order in advance to allow department personnel sufficient time to assemble the order. The licensee or employees of the licensee may not pick merchandise directly off the shelves of a state store or package agency to fill the licensee's order. The order shall include the business name of the licensee, department licensee number, and list the products ordered specifying each product by code number and quantity.

(2) The licensee shall allow at least four hours for department personnel to assemble the order for pick-up. When the order is complete, the licensee will be notified by phone and given the total cost of the order. The licensee may pay for the product in cash, company check or cashier's check.

(3) The licensee or the licensee's designee shall examine and sign for the order before it leaves the store, agency or satellite warehouse to verify that the product has been received.

(4) Merchandise shall be supplied to the licensee on request when it is available on a first come first serve basis. Discounted items and limited items may, at the discretion of the department, be provided to a licensee on an allocated basis.

(5)(a) Spirituous liquor may be returned by the licensee for the original purchase price only under the following conditions:

(i) the bottle has not been opened;

(ii) the seal remains intact;

(iii) the label remains intact; and

(iv) upon a showing of the original cash register receipt.

(b) A restocking fee of 10% shall be assessed on the entire amount on any returned spirituous liquor order that exceeds \$1,000. All spirituous liquor returned that is based on a single purchase on a single cash register receipt must be returned at the same time at a single store, package agency, or satellite warehouse location.

(b) Wine and beer may not be returned by the licensee for the original purchase price except upon a showing that the product was spoiled or non-consumable.

R81-4B-6. Airport Lounge Liquor Licensee Operating Hours.

Liquor sales shall be in accordance with Section 32A-4-206(9). However, licensees may open the liquor storage area during hours otherwise prohibited for the limited purpose of inventory, restocking, repair, and cleaning.

R81-4B-7. Sale and Purchase of Alcoholic Beverages.

A patron may pay for an alcoholic beverage at the time of purchase, or, at the discretion of both the licensee and the patron, the price charged may be added to the patron's tab, provided that a written beverage tab, as provided in Section 32A-4-206(22), shall be commenced upon the patron's first purchase and shall be maintained by the airport lounge during the course of the patron's stay at the airport lounge regardless of where the patron orders and consumes an alcoholic beverage. Customers shall be notified of the price charged for any packaged wine or heavy beer and any service charges for the supply of glasses, chilling, or wine service.

R81-4B-8. Liquor Storage.

Liquor bottles kept for sale in use with a dispensing system, liquor flavorings in properly labeled unsealed containers, and unsealed containers of wines poured by the glass may be stored in the same storage area of the airport lounge as approved by the department.

R81-4B-9. Alcoholic Product Flavoring.

Airport lounge licensees may use alcoholic products as flavoring subject to the following guidelines:

(1) Alcoholic product flavoring may be utilized in beverages only during the authorized selling hours under the airport lounge license. Alcoholic product flavoring may be used in the preparation of food items and desserts at any time if plainly and conspicuously labeled "cooking flavoring".

(2) No airport lounge employee under the age of 21 years may handle alcoholic product flavorings.

R81-4B-10. Price Lists.

(1) Each licensee shall have available for its patrons a printed price list containing current prices of all mixed drinks, wine, beer, and heavy beer. This list shall include any charges for the service of packaged wines or heavy beer.

(2) Any printed menu, master beverage price list or other printed list is sufficient as long as the prices are current and the list is readily available to the patron.

(3) A licensee or his employee may not misrepresent the price of any alcoholic beverage that is sold or offered for sale on the licensed premises.

R81-4B-11. Identification Badge.

Each employee of the licensee who sells, dispenses or provides alcoholic beverages shall wear a unique identification badge visible above the waist, bearing the employee's first name, initials, or a unique number in letters or numbers not less than 3/8 inch high. The identification badge must be worn on the front portion of the employee's body. The licensee shall maintain a record of all employee badges assigned, which shall be available for inspection by any peace officer, or representative of the department. The record shall include the employee's full name and address and a driver's license or similar identification number.

KEY: alcoholic beverages

August 1, 2003

32A-1-107

Notice of Continuation: April 2, 2001

TITLE 32A - ALCOHOLIC BEVERAGE CONTROL ACT

(Updated through May 2008)

Chapter 14a - Alcoholic Beverage Liability

32A-14a-101. DEFINITIONS.

As used in this chapter:

(1) "DEATH OF A THIRD PERSON" includes recovery for all damages, special and general, resulting from such death, except punitive damages.

(2)(a) "INJURY" includes injury in person, property, or means of support.

(b) "INJURY" also includes recovery for intangibles such as mental and emotional injuries, loss of affection, and companionship.

32A-14a-102. Liability for injuries and damage resulting from distribution of alcoholic beverages -- Causes of action -- Statute of limitations -- Employee protections.

(1) (a) Except as provided in Section 32A-14a-103, a person described in Subsection (1)(b) is liable for:

(i) any and all injury and damage, except punitive damages to:

(A) any third person; or

(B) the heir, as defined in Section 78B-3-105, of that third person; or

(ii) for the death of a third person.

(b) A person is liable under Subsection (1)(a) if:

(i) the person directly gives, sells, or otherwise provides an alcoholic beverage:

(A) to a person described in Subsection (1)(b)(ii); and

(B) as part of the commercial sale, storage, service, manufacture, distribution, or consumption of alcoholic products;

(ii) those actions cause the intoxication of:

(A) any individual under the age of 21 years;

(B) any individual who is apparently under the influence of intoxicating alcoholic products or drugs;

(C) any individual whom the person furnishing the alcoholic beverage knew or should have known from the circumstances was under the influence of intoxicating alcoholic beverages or products or drugs; or

(D) any individual who is a known interdicted person; and

(iii) the injury or death described in Subsection (1)(a) results from the intoxication of the individual who is provided the alcoholic beverage.

(2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable for:

(i) any and all injury and damage, except punitive damages to:

(A) any third person; or

(B) the heir, as defined in Section 78B-3-105, of that third person; or

(ii) for the death of the third person.

(b) A person is liable under Subsection (2)(a) if:

(i) that person directly gives or otherwise provides an alcoholic beverage to an individual who the person knows or should have known is under the age of 21 years;

(ii) those actions caused the intoxication of the individual provided the alcoholic beverage;

(iii) the injury or death described in Subsection (2)(a) results from the intoxication of the individual who is provided the alcoholic beverage; and

(iv) the person is not liable under Subsection (1), because the person did not directly give or provide the alcoholic beverage as part of the commercial sale, storage, service, manufacture, distribution, or consumption of alcoholic products.

(3) Except for a violation of Subsection (2), an employer is liable for the actions of its employees in violation of this chapter.

(4) A person who suffers an injury under Subsection (1) or (2) has a cause of action against the person who provided the alcoholic beverage in violation of Subsection (1) or (2).

(5) If a person having rights or liabilities under this chapter dies, the rights or liabilities provided by this chapter survive to or against that person's estate.

(6) The total amount that may be awarded to any person pursuant to a cause of action for injury and damage under this chapter that arises after January 1, 1998, is limited to \$500,000 and the aggregate amount which may be awarded to all persons injured as a result of one occurrence is limited to \$1,000,000.

(7) An action based upon a cause of action under this chapter shall be commenced within two years after the date of the injury and damage.

(8) (a) Nothing in this chapter precludes any cause of action or additional recovery against the person causing the

injury.

(b) Any cause of action or additional recovery against the person causing the injury and damage, which action is not brought under this chapter, is exempt from the damage cap in Subsection (6).

(c) Any cause of action brought under this chapter is exempt from Sections **78B-5-817** through **78B-5-823**.

(9) This section does not apply to a business licensed under Chapter 10, Part 1, General Provisions, to sell beer at retail only for off-premise consumption.

32A-14a-103. EMPLOYEE PROTECTED IN EXERCISING JUDGMENT.

(1) An employer may not sanction or terminate the employment of an employee of a restaurant, airport lounge, private club, on-premise beer retailer, or any other establishment serving alcoholic beverages as a result of the employee having exercised the employee's independent judgment to refuse to sell alcoholic beverages to any person the employee considers to meet one or more of the conditions described in Subsection 32A-14a-102(1).

(2) Any employer who terminates an employee or imposes sanctions on the employee contrary to this section is considered to have discriminated against that employee and is subject to the conditions and penalties set forth in Title 34A, Chapter 5, Utah Antidiscrimination Act.

32A-14a-104. GOVERNMENTAL IMMUNITY.

No provision of this title creates any civil liability on the part of the state or its agencies and employees, the commission, the department, or any political subdivision arising out of their activities in regulating, controlling, authorizing, or otherwise being involved in the sale or other distribution of alcoholic beverages.

32A-14a-105. ACTION FOR CONTRIBUTION BY PROVIDER OF ALCOHOLIC BEVERAGES.

(1)(a) Except as provided in Subsections (2) and (3), a person, as defined under Subsection 32A-14a-102(1), (2), or (3), against whom an award has been made under this chapter, may bring a separate cause of action for contribution against any person causing the injury and damage.

(b) The maximum amount for which any person causing the injury and damage may be liable to any person seeking contribution is that percentage or proportion of the damages equivalent to the percentage or proportion of fault attributed to that person causing the injury and damage.

(2) This action for contribution under this section may not be brought against:

(a) any person entitled to recovery as described in Subsection 32A-14a-102(1)(a)(i) or (ii); or

(b) any person entitled to recover as described in Subsection 32A-14a-102(2)(a)(i) or (ii).

(3) An action for contribution under this section may not diminish the amount of recovery for injury or damages awarded and received to any person entitled to recover as described in Subsection 32A-14a-102(1)(a)(i) or (ii) or 32A-14a-102(2)(a)(i) or (ii):

(a) in a cause of action brought under this chapter; or

(b) in a separate cause of action for injury and damage that is not brought under this chapter.

R81. Alcoholic Beverage Control, Administration.

R81-1-9. Liquor Dispensing Systems.

Proposed rule amendments (in italics) for R81-1-9 (Liquor Dispensing Systems):

A licensee may not install or use any system for the automated mixing or dispensing of spirituous liquor unless the dispensing system has been approved by the department.

(1) Minimum requirements. The department will only approve a dispensing system which:

(a) dispenses spirituous liquor in calibrated quantities not to exceed ~~[one ounce]~~ 1.5 ounces; and

(b) has a meter which counts the number of pours dispensed.

The margin of error of the system for a one ounce pour size cannot exceed 1/16 of an ounce or two milliliters.

(2) Types of systems. Dispensing systems may be of various types including: gun, stationary head, tower, insertable spout, ring activator or similar method.

(3) Method of approval.

(a) Suppliers. Companies which manufacture, distribute, sell, or supply dispensing systems must first have their product approved by the department prior to use by any liquor licensee in the state. They shall complete the "Supplier Application for Dispensing System Approval" form provided by the department, which includes: the name, model number, manufacturer and supplier of the product; the type and method of dispensing, calibrating, and metering; the degree or tolerance of error, and a verification of compliance with federal and state laws, rules, and regulations.

(b) Licensees. Before any dispensing system is put into use by a licensee, the licensee shall complete the "Licensee Application for Dispensing System Approval" form provided by the department. The department shall maintain a list of approved products and shall only authorize installation of a product previously approved by the department as provided in subsection (a). The licensee is thereafter responsible for verifying that the system, when initially installed, meets the specifications which have been supplied to the department by the manufacturer. Once installed, the licensee shall maintain the dispensing system to ensure that it continues to meet the manufacturer's specifications. Failure to maintain the system may be grounds for suspension or revocation of the licensee's liquor license.

(c) Removal from approved list. In the event the system does not meet the specifications as represented by the manufacturer, the licensee shall immediately notify the department. The department shall investigate the situation to determine whether the product should be deleted from the approved list.

(4) Operational restrictions.

(a) The system must be calibrated to pour a quantity of spirituous liquor not to exceed ~~[one ounce]~~ 1.5 ounces.

(b) Voluntary consent is given that representatives of the department, State Bureau of Investigation, or any law enforcement officer shall have access to any system for inspection or testing purposes. A licensee shall furnish to the representatives, upon request, samples of the alcoholic products dispensed through any system for verification and analysis.

(c) Spirituous liquor bottles in use with a dispensing system at the dispensing location must be affixed to the dispensing system by the licensee. Spirituous liquor bottles in use with a remote dispensing system must be in a locked storage area. Any other primary spirituous liquor not in service must remain unopened. There shall be no opened primary spirituous liquor bottles at a dispensing location that are not affixed to an approved dispensing device. ~~[This rule does not prohibit the presence of opened containers of wine for use as provided by law.]~~

(d) The dispensing system and spirituous liquor bottles attached to the system must be locked or secured in such a place and manner as to preclude the dispensing of spirituous liquor at times when liquor sales are not authorized by law.

(e) All dispensing systems and devices must

(i) avoid an in-series hookup which would permit the contents of liquor bottles to flow from bottle to bottle before reaching the dispensing spigot or nozzle;

(ii) not dispense from or utilize containers other than original liquor bottles; and

(iii) prohibit the intermixing of different kinds of products or brands in the liquor bottles from which they are being dispensed.

(f) Pursuant to federal law, all liquor dispensed through a dispensing system shall be from its original container, and there shall be no re-use or refilling of liquor bottles with any substance whatsoever. The commission adopts federal regulations 27 CFR ~~[494]~~ 31.261 – 31.262 and 26 USC[A] Section 5301 and incorporates them by reference.

(g) Each licensee shall keep daily records for each dispensing outlet as follows:

(i) a list of the brands of liquor dispensed through the dispensing system;

(ii) [beginning and ending meter readings by brand or sales price level and] the number of portions of liquor dispensed through the dispensing system determined by the calculated difference between the beginning and ending meter readings and/or as electronically generated by the recording software of the dispensing system;

(iii) number of portions of liquor sold [by brand or sales price level]; and

(iv) a comparison of the number of portions dispensed to the number of portions sold including an explanation of any variances [by brand or sales price level].

(v) These records must be made available for inspection and audit by the department or law enforcement.

(h) *This rule does not prohibit the sale of pitchers of mixed drinks as long as the pitcher contains no more than ~~[one ounce]~~ 1.5 ounces of primary spirituous liquor and no more than a total of 2.5 ounces of spirituous liquor per person to which the pitcher is served.*

(i) Licensees shall display in a prominent place on the premises a list of the types and brand names of spirituous liquor being served through its dispensing system. This requirement may be satisfied either by printing the list on an alcoholic beverage menu or by wall posting or both. No lists which are wall posted on the premises of a restaurant licensee may be smaller than 8 1/2 by 11 inches.

(j) A licensee or his employee shall not:

(i) sell or serve any brand of spirituous liquor not identical to that ordered by the patron; or

(ii) misrepresent the brand of any spirituous liquor contained in any drink sold or offered for sale.

(k) All dispensing systems and devices must conform to federal, state, and local health and sanitation requirements. Where considered necessary, the department may:

(i) require the alteration or removal of any system,

(ii) require the licensee to clean, disinfect, or otherwise improve the sanitary conditions of any system.

Proposed rule change: **Repeal R81-1-10 (Wine Dispensing) in its entirety.**

~~[R81-1-10. Wine Dispensing.~~

~~_____ (1) Each licensee shall keep daily records that compare the number of portions of wine by the glass dispensed to the number of portions sold. These records shall indicate:~~

~~_____ (a) the brands of each wine dispensed by the glass;~~

~~_____ (b) the portion size, not to exceed five ounces per portion, and the number of portions dispensed by the glass of each wine by brand and sales price level;~~

~~_____ (c) the portion size and number of portions sold by the glass of each wine by brand and sales price level; and~~

~~_____ (d) a comparison of the number of portions dispensed to the number of portions sold including an explanation of any variances.~~

~~_____ These records must be made available for inspection and audit by the department or law enforcement.]~~

TITLE 32A- ALCOHOLIC BEVERAGE CONTROL ACT

32A-1-401. ALCOHOL TRAINING AND EDUCATION -- REVOCATION OR SUSPENSION OF LICENSES.

- (1) The commission may suspend, revoke, or not renew the license of any licensee if any of the following persons, as defined in Section 62A-15-401, fail to complete the seminar required in Section 62A-15-401:
- (a) a person who manages operations at the premises of the licensee;
 - (b) a person who supervises the serving of alcoholic beverages to a customer for consumption on the premises of the licensee; or
 - (c) a person who serves alcoholic beverages to a customer for consumption on the premises of the licensee.
- (2) A city, town, or county in which an establishment conducts its business may suspend, revoke, or not renew the business license of the establishment if any person described in Subsection (1) fails to complete the seminar required in Section 62A-15-401.

R81. Alcoholic Beverage Control, Administration.

R81-1-12. Alcohol Training and Education Seminar.

- (1) The alcohol training and education seminar, as described in Section 62A-15-401, shall be completed by every individual of every new and renewing licensee under title 32A who:
- (a) is employed to sell or furnish alcoholic beverages to the public within the scope of his employment for consumption on the premises;
 - (b) is employed to manage or supervise the service of alcoholic beverages; or
 - (c) holds an ownership interest in an on-premise licensed establishment and performs the duties of a manager, supervisor, or server of alcoholic beverages.
- (2) Persons described in subsection 1(a) and (b) must complete the training within 30 days of commencing employment. Persons described in subsection 1(c) must complete the training within 30 days of engaging in the duties described in subsection 1(a) and (b).
- (3) Each licensee shall maintain current records on each individual indicating:
- (a) date of hire, and
 - (b) date of completion of training.
- (4) The seminar shall include the following subjects in the curriculum and training:
- (a) alcohol as a drug and its effect on the body and behavior;
 - (b) recognizing the problem drinker;
 - (c) an overview of state alcohol laws;
 - (d) dealing with problem customers; and
 - (e) alternate means of transportation to get a customer safely home.
- (5) Persons required to complete the seminar shall pay a fee to the seminar provider.
- (6) The seminar is administered by the Division of Substance Abuse of the Utah Department of Human Services.
- (7) Persons who are not in compliance with subsection (2) may not:
- (a) serve or supervise the serving of alcoholic beverages to a customer for consumption on the premises of a licensee; or
 - (b) engage in any activity that would constitute managing operations at the premises of a licensee.



U.S. DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

REMINDER

Retailers Of Beverage Alcohol Products

If you sell beverage alcohol as part of your business, you must pay an annual special occupational tax. Beverage alcohol means distilled spirits, wine, beer, mixed drinks, and beer or wine coolers. This tax applies to persons who sell on or off premises or who provide alcoholic beverages as part of the cost of an item or service. You may owe this tax even when you will not make a profit or when you are exempt from income tax.

Detailed information, forms, and taxpayer assistance, is available at web site of the ALCOHOL AND TOBACCO TAX AND TRADE BUREAU:

<http://www.ttb.gov/alcohol/retailers/index.htm>

You must file and pay the special occupational tax on form ATF F 5630.5. You can print or download ATF Form 5630.5 or you can request a packet with the form and instructions by calling the Alcohol and Tobacco Tax and Trade Bureau's toll-free number at 800-937-8864 or local to 513-684-2979.

(REVISED APRIL 22, 2005)

Suspension of Special Occupational Tax Payments

Washington, D.C. - On October 22, 2004, H.R. 4520, the American Job Creations Act of 2004, was signed into law. As part of this act, the payment of Special Occupational Tax (SOT) will be suspended for certain businesses.

Although most taxpayers no longer will have to pay this tax during the suspension period, others will still be required to continue paying, and all taxpayers must still file the SOT Tax Return (TTB Form 5630.5) annually with the Alcohol and Tobacco Tax and Trade Bureau (TTB).

Currently, SOT is due by July 1 of every year for most businesses engaged in alcohol and tobacco industries at the manufacturing, wholesaling/importing, and retailing levels (tobacco retailers are not included).

With this new law, most SOT taxpayers will no longer be required to pay this tax for the period beginning July 1, 2005. The suspension of the SOT requirement will last three years and ends on June 30, 2008. No SOT is due for operations conducted between these dates.

Payment of SOT will no longer be required from producers, wholesalers, importers, and retailers of alcohol beverages, as well as manufacturers of non-beverage products.

SOT will remain due by Tax-Free Alcohol Users and Specially Denatured Alcohol Users and Dealers as well as Tobacco Products Manufacturers and Tobacco Export Warehouse Proprietors.

For all industry members, SOT remains due and payable for all persons in business and any new business until July 1, 2005. Any liabilities up until that date will still be due, even during the suspension period.

If you have questions regarding the suspension of SOT, please contact TTB's National Revenue Center at 1-(800) 937-8864 or (513) 684-2979.